

Chapter 530

(Senate Bill 221)

AN ACT concerning

Criminal Law – Child Pornography – Prohibitions and Penalties

FOR the purpose of prohibiting a person from possessing or viewing certain child pornography under certain circumstances; and generally relating to child pornography prohibitions and penalties.

BY repealing and reenacting, without amendments,

Article – Criminal Law

Section 11–207 and 11–208

Annotated Code of Maryland

(2021 Replacement Volume and 2025 Supplement)

BY adding to

Article – Criminal Law

Section 11–208.2

Annotated Code of Maryland

(2021 Replacement Volume and 2025 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Criminal Law

11–207.

(a) A person may not:

(1) cause, induce, solicit, or knowingly allow a minor to engage as a subject in the production of obscene matter or a visual representation or performance that depicts a minor engaged as a subject in sadomasochistic abuse or sexual conduct;

(2) photograph or film a minor engaging in an obscene act, sadomasochistic abuse, or sexual conduct;

(3) use a computer to depict or describe a minor engaging in an obscene act, sadomasochistic abuse, or sexual conduct;

(4) knowingly promote, advertise, solicit, distribute, or possess with the intent to distribute any matter, visual representation, or performance:

(i) that depicts a minor engaged as a subject in sadomasochistic abuse or sexual conduct; or

(ii) in a manner that reflects the belief, or that is intended to cause another to believe, that the matter, visual representation, or performance depicts a minor engaged as a subject of sadomasochistic abuse or sexual conduct; or

(5) use a computer to knowingly compile, enter, transmit, make, print, publish, reproduce, cause, allow, buy, sell, receive, exchange, or disseminate any notice, statement, advertisement, or minor's name, telephone number, place of residence, physical characteristics, or other descriptive or identifying information for the purpose of engaging in, facilitating, encouraging, offering, or soliciting unlawful sadomasochistic abuse or sexual conduct of or with a minor.

(b) A person who violates this section is guilty of a felony and on conviction is subject to:

(1) for a first violation, imprisonment not exceeding 10 years or a fine not exceeding \$25,000 or both; and

(2) for each subsequent violation, imprisonment not exceeding 20 years or a fine not exceeding \$50,000 or both.

(c) (1) (i) This paragraph applies only if the minor's identity is unknown or the minor is outside the jurisdiction of the State.

(ii) In an action brought under this section, the State is not required to identify or produce testimony from the minor who is depicted in the obscene matter or in any visual representation or performance that depicts the minor engaged as a subject in sadomasochistic abuse or sexual conduct.

(2) The trier of fact may determine whether an individual who is depicted in an obscene matter, or any visual representation or performance as the subject in sadomasochistic abuse or sexual conduct, was a minor by:

(i) observation of the matter depicting the individual;

(ii) oral testimony by a witness to the production of the matter, representation, or performance;

(iii) expert medical testimony; or

(iv) any other method authorized by an applicable provision of law or rule of evidence.

(a) (1) In this section, “indistinguishable from an actual and identifiable child” means an ordinary person would conclude that the image is of an actual and identifiable minor.

(2) “Indistinguishable from an actual and identifiable child” includes a computer-generated image that has been created, adapted, or modified to appear as an actual and identifiable child.

(3) “Indistinguishable from an actual and identifiable child” does not include images or items depicting minors that are:

- (i) drawings;
- (ii) cartoons;
- (iii) sculptures; or
- (iv) paintings.

(b) (1) A person may not knowingly possess and intentionally retain a film, videotape, photograph, or other visual representation showing an actual child or a computer-generated image that is indistinguishable from an actual and identifiable child under the age of 16 years:

- (i) engaged as a subject of sadomasochistic abuse;
- (ii) engaged in sexual conduct; or
- (iii) in a state of sexual excitement.

(2) A person may not knowingly or intentionally access and intentionally view a film, videotape, photograph, or other visual representation showing an actual child or a computer-generated image that is indistinguishable from an actual and identifiable child under the age of 16 years:

- (i) engaged as a subject of sadomasochistic abuse;
- (ii) engaged in sexual conduct; or
- (iii) in a state of sexual excitement.

(c) (1) Except as provided in paragraph (2) of this subsection, a person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding \$2,500 or both.

(2) A person who violates this section, having previously been convicted under this section, is guilty of a felony and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding \$10,000 or both.

(d) Nothing in this section may be construed to prohibit a parent from possessing visual representations of the parent's own child in the nude unless the visual representations show the child engaged:

- (1) as a subject of sadomasochistic abuse; or
- (2) in sexual conduct and in a state of sexual excitement.

(e) It is an affirmative defense to a charge of violating this section that the person promptly and in good faith:

- (1) took reasonable steps to destroy each visual representation; or
- (2) reported the matter to a law enforcement agency.

11-208.2.

(A) (1) IN THIS SECTION, "IMAGE" MEANS ANY MATTER, VISUAL REPRESENTATION, OR PERFORMANCE, INCLUDING PHOTOGRAPHS, PICTURES, ELECTRONIC PHOTOGRAPHS, COMPUTER-GENERATED IMAGES, VIDEOS, ELECTRONIC VIDEOS, FILM, VIDEOTAPES, OR SIMILAR VISUAL REPRESENTATIONS OR VIDEO DEPICTIONS.

(2) FOR THE PURPOSE OF DETERMINING THE NUMBER OF IMAGES IN POSSESSION OF AN INDIVIDUAL IN VIOLATION OF THIS SECTION:

(I) EACH PHOTOGRAPH, PICTURE, ELECTRONIC PHOTOGRAPH, COMPUTER-GENERATED IMAGE, OR SIMILAR VISUAL REPRESENTATION SHALL BE DEEMED TO BE ONE IMAGE; AND

(II) EACH VIDEO, ELECTRONIC VIDEO, FILM, VIDEOTAPE, OR SIMILAR VIDEO DEPICTION SHALL BE DEEMED TO BE 20 IMAGES.

(B) (1) A PERSON MAY NOT VIOLATE § 11-207(A)(4) OR § 11-208(B)(1) OF THIS SUBTITLE WITH 100 OR MORE IMAGES.

(2) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 10 YEARS.

(3) A SENTENCE IMPOSED UNDER THIS SUBSECTION MAY BE SEPARATE FROM AND CONSECUTIVE TO OR CONCURRENT WITH A SENTENCE IMPOSED FOR ANY OTHER CRIME BASED ON THE ACT ESTABLISHING A VIOLATION OF § 11-207 OR § 11-208 OF THIS SUBTITLE.

(c) (1) A PERSON MAY NOT VIOLATE § 11-207(A)(4) OR § 11-208(B)(1) OR (2) OF THIS SUBTITLE WITH ANY IMAGE DEPICTING A MINOR OR AN INDIVIDUAL INDISTINGUISHABLE FROM AN ACTUAL AND IDENTIFIABLE CHILD UNDER THE AGE OF 13 YEARS.

(2) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 10 YEARS.

(3) A SENTENCE IMPOSED UNDER THIS SUBSECTION MAY BE SEPARATE FROM AND CONSECUTIVE TO OR CONCURRENT WITH A SENTENCE IMPOSED FOR ANY OTHER CRIME BASED ON THE ACT ESTABLISHING A VIOLATION OF § 11-207 OR § 11-208 OF THIS SUBTITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2026.

Approved by the Governor, May 12, 2026.